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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 MICHAEL PEARSON, CDCR #T-15673;
12 JERMAINE PINA, CDCR #K-04452;
13 RAYMOND SCOTT, CDCR #K-17569,

14 Plaintiffs,

15 vs.

16 STATE OF CALIFORNIA; MATTHEW
17 CATE; DOMINGO URIBE, JR.; KEN
18 PHILLIPS; HANEEF SALAAM,

19 Defendants.

CASE NO. 10cv1657 MMA (BLM)

**ORDER GRANTING EXTENSION
OF TIME TO EFFECT SERVICE**

[Doc. No. 20]

20 On February 9, 2011, Plaintiffs Michael Pearson, Jermaine Pina, and Raymond Scott
21 ("Plaintiffs"), state prisoners proceeding *pro se*, filed a request for an extension of time to serve
22 Defendants Matthew Cate, Domingo Uribe, Jr., Ken Phillips, and Haneef Salaam ("Defendants").
23 [Doc. No. 20.] For the reasons stated herein, the Court **GRANTS** Plaintiffs' request.

24 Plaintiffs filed their complaint on August 6, 2010, and paid in full the filing fee mandated
25 by 28 U.S.C. § 1914(a). [Id.] Under Federal Rule of Civil Procedure 4(m), Plaintiffs were
26 required to serve Defendants within 120 days after the Complaint was filed, by December 6, 2010.
27 On December 6, 2010, Plaintiff filed proofs of service as to Defendants Domingo Uribe, Ken
28 Phillips, and Haneef Salaam; the summons was returned unexecuted as to Matthew Cate. [Doc.
Nos. 13-16.] On January 13, 2011, the Court determined service was not properly completed as to
all Defendants. [Doc. No. 19.]


1 Plaintiffs filed the instant motion to extend time to serve Defendants, requesting an
2 additional thirty days. Plaintiffs contend good cause exists to grant an extension because although
3 Plaintiffs paid the initial filing fee, they no longer have the financial resources to serve
4 Defendants. Plaintiffs argue that if the Court grants an extension of time, it will allow Plaintiffs to
5 prepare and file a motion to proceed *in forma pauperis*, such that the Court can consider issuing an
6 order directing the U.S. Marshall to effectuate service. [Doc. No. 24.]

7 Courts deny as moot motions to proceed *in forma pauperis* ("IFP") where the filing fee is
8 subsequently paid. *See Lipscomb v. Madigan*, 221 F.2d 798 (9th Cir.1955); *see also Escobar v.*
9 *Clark*, 2007 WL 1100307 *1 (N.D.Cal. 2007). Thus, to the extent Plaintiffs base the present
10 motion on their stated intention to file a motion to proceed IFP, the Court finds extension on such
11 grounds is not warranted.

12 Nonetheless, due to Plaintiffs' incarcerated status and their limited access to resources, the
13 Court finds good cause to grant to extend Plaintiffs' time to effect service. Accordingly, the Court
14 **GRANTS** Plaintiffs' request. Plaintiffs shall serve Defendants on or before **March 16, 2011**.
15 The Court cautions Plaintiffs that no further requests for extensions of time shall be granted absent
16 demonstration of good cause such as proof of diligent efforts to serve Defendants.

17 **IT IS SO ORDERED.**

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19 DATED: February 14, 2011



20 Hon. Michael M. Anello
21 United States District Judge
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